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February 24, 2009

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Hon. Susan Illston  
United States District Court  
Northern District of California  
450 Golden Gate Avenue  
San Francisco, CA 94102

Re: *Bryan, et al. v. Wal-Mart Stores, Inc., et al.* (Case No. CV-08-05221-SI)

Dear Judge Illston:

This letter is to follow up on a telephone conversation I had with Calendar Clerk Tracy Sutton earlier this morning regarding the Clerk's Notice filed yesterday scheduling a case management conference in the above-entitled matter. Ms. Sutton requested that we, as counsel for Defendant Wal-Mart Stores, Inc., file this letter to clarify the current status of this case.

On February 19, 2009, the parties filed a stipulated request that the Court stay this case in its entirety pending a final decision by the California Supreme Court in *Brinker Restaurant Corp. v. Superior Court*, Case No. S166350, 85 Cal. Rptr. 3d 688 ("*Brinker*"). The stipulation requested the Court to order that the stay become effective after the Court had issued its order on Plaintiffs' pending Motion to Remand this case, regardless of the Court's decision on that Motion. The stipulation stated that the parties would promptly notify the Court following the date the California Supreme Court's judgment in *Brinker* becomes final, at which time, the Court may schedule further proceedings, as appropriate. The stipulation further requested that the Court continue the initial case management conference until a date to be set by the Court after the expiration of the stay. On February 19, 2009, the Court signed the stipulated request specifying that the case was stayed "except for the Motion to Remand."

On February 23, 2009, the Court issued its order denying Plaintiffs' motion to remand this case. Accordingly, we believe that the Clerk's Notice issued February 23, 2009 scheduling a case management conference should be modified to reflect that this case remains stayed pending

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a final decision by the California Supreme Court in *Brinker*, and that the case management conference is taken off the Court's calendar.

Please do not hesitate to contact me directly at the number listed above if you have any questions or concerns regarding this matter.

Best regards,

  
Rebecca Justice Lazarus

RJL/rjl

4/3/08 case management  
conference is vacated.

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### **DECLARATION OF SERVICE**

I, Robin McBain, declare as follows:

I am employed in the County of San Francisco, State of California; I am over the age of eighteen years and am not a party to this action; my business address is 555 Mission St., Ste. 3000, San Francisco, California 94105, in said County and State. On February 24, 2009, I served the within:

#### **LETTER TO JUDGE SUSAN ILLSTON REGARDING STIPULATED REQUEST TO STAY CASE & SUBSEQUENT ORDER DENYING PLAINTIFFS' MOTION TO REMAND**

to all named counsel of record as follows:



**BY ECF (ELECTRONIC CASE FILING):** I e-filed the above-detailed documents utilizing the United States District Court, Northern District of California's mandated ECF (Electronic Case Filing) service on February 24, 2009. Counsel of record are required by the Court to be registered e-filers, and as such are automatically e-served with a copy of the documents upon confirmation of e-filing.

I certify under penalty of perjury that the foregoing is true and correct, that the foregoing document(s) were printed on recycled paper, and that this Certificate of Service was executed by me on February 24, 2009, at San Francisco, California.

By /s/Robin McBain  
Robin McBain